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10/037,020	12/21/2001	Karen Heneghan	KH-1	5345

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EXAMINER
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GUIDOTTI, LAURA COLE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/037,020

Applicant(s)

HENEGHAN, KAREN

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the Amendment of 21 December 2005, the Applicant added to each of the independent claims 1 and 7 "...a mini blind having a rigid spine with a flat bottom..." however, in the Applicant's specification and in the Applicant's drawings, there is no description or inference of the rigid spine having a flat bottom. In Applicant's Figure 1, the spine (12) does not portray any surface geometry of the bottom of the spine.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo et al., USPN 4,951,909 in view of Vartanian, USPN 5,655,589.

Russo et al. disclose a mounting means for a common window shade (Column 2 Line 66 to Column 3 Line 2) having advertising information or decorations (see Figure 1; Column 1 Lines 29-39), wherein the mounting means includes a first and second end support (18 and 19), each support including a back portion (32 and 34) and a lower portion (22 and 23, wherein the attachment to the portions 32 and 34 are transverse), and suction cup means (20, 21) affixed to the back portions. Each of the end supports includes "side portions" (the side portions being the side faces of 22 or 23). Each of the end supports comprises front portions (the loop or hook formed by 22 and 23 provide a front portion) for restriction transverse horizontal movement of the spine (see Figure 1). Russo et al. does not include that the common window shade is a mini-blind structure having a rigid spine.

Vartanian discloses a decorative mini-blind (Abstract) having a design or decoration (Column 4 Lines 20-33) and a rigid spine with a flat bottom (not labeled; see

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portion of the mini blind in the Figures nearest to reference numeral "10", also it appears that the spine has a "flat bottom").

It would have been obvious for one of ordinary skill in the art to substitute the common window shade of Russo et al. for mini-blinds having a rigid spine, as Vartanian teaches, in order to provide an alternative type of common window covering or shading mechanism that displays indicia or decorations.

3. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo et al., USPN 4,951,909 and Vartanian, USPN 5,655,589 as applied to Claim 1, in view of Gary et al., USPN 6,325,344.

Russo et al. and Vartanian disclose all elements above, however the end supports do not include a pair of suction cups.

Gary et al. disclose a hanger device that has a back portion and a lower portion extending at right angles thereto (see Figures 1 and 5-7) and suction cup means affixed to the back portion (12). Further, the device of Gary et al. is for hanging objects and supporting a load in the front of a vertical surface (Column 2 Lines 54-67) and is shaped triangularly and having two suction cups (16) for structural stability, improved load distribution, and reducing the tendency of suction cups to be pulled away from a surface (Column 2 Lines 1-23; Column 3 Lines 21-23).

It would have been obvious for one of ordinary skill in the art to modify the end support of Russo et al. and Vartanian to have a configuration that has a pair of suction cups, as Gary et al. teach, in order to better structurally support and provide stability to the object that it is mounting.

***Allowable Subject Matter***

4. Claims 5-6 and 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

None of the prior art of record discloses a mini blind cleaning system comprising a mini blind having a rigid spline, a first and second end support, the first and second end support each including a back portion and a lower portion extending at substantially right angles thereto, suction cup means affixed to the back portions, and an intermediate support including a back portion and a lower portion extending at substantially right angles thereto with suction cup means affixed to the back portion of the intermediate portion.

***Applicants Arguments***

5. In the response filed 21 December 2005, the Applicant contends that:

A. "None of the applied art discloses or suggests its use in cleaning mini blinds."

B. The Russo patent "doesn't mention or suggest anything relative to cleaning of the display or window shade" and "it is also clear that the Russo structure cannot be used to support the spine ends of a mini blind."

C. The new rejections are silent regarding the critical inventive concept of providing a combination of elements to facilitate the cleaning of mini blinds.

D. "Without the Applicant's inventive concept, the combination of Russo and Vartanian would not occur to one of ordinary skill in the art of mini blind cleaning..."

E. That there has been progress achieved in commercializing the invention.

***Response to Arguments***

6. Applicant's arguments **A-E** filed 21 December 2005 have been fully considered but they are not persuasive.

Regarding arguments **A-D**, in response to applicant's argument that none of the applied art discloses or suggests its use in cleaning mini blinds, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Also, in response to applicant's arguments **A-D**, the recitation "cleaning system" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The Applicant's claimed mini blind cleaning system includes a mini blind and end supports for supporting the mini blind. The system is not structurally limited so as to be only used when "cleaning" of the mini blinds. The supports are capable of supporting a mini blind structure in extensive uses.

Regarding argument **B**, Russo is in fact clearly capable of supporting spine ends of a mini blind.

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Regarding the declaration of argument **E**, the Applicant provides a declaration of evidence of the commercialization of the invention and that the evidence is believed to be dispositive of the question of unobviousness under Section 103. The Examiner has considered the declaration of the Applicant and the Examiner has concluded that the gross sales figures do not show commercial success absent evidence as to market share, *Cable Electric Products, Inc. v. Genmark, Inc.*, 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985 ), or as to the time period during which the product was sold, or as to what sales would normally be expected in the market, *Ex parte Standish*, 10 USPQ 1454 (Bd. Pat. App. & Inter. 1988). See MPEP 716.03(b)IV.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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